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ASETEK DANMARK A/S

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

18 ASETEK DANMARK A/S,  
19 Plaintiff,  
20 v.  
21 NEWEGG INC., NEWEGG NORTH AMERICA  
INC.  
22 Defendants.

CASE NO.

**COMPLAINT FOR WILLFUL  
PATENT INFRINGEMENT**  
**DEMAND FOR JURY TRIAL**

1 Plaintiff Asetek Danmark A/S (“Asetek”), through its undersigned attorneys, alleges the  
2 following for its Complaint against Newegg Inc. and Newegg North America Inc. (collectively,  
3 “Newegg”):

4 **NATURE OF ACTION**

5 1. This Complaint seeks judgment that Newegg has infringed and continues to infringe  
6 Asetek’s U.S. Patent Nos. 8,240,362 (“the ’362 patent”) and 8,245,764 (“the ’764 patent”) (together  
7 the “Patents-in-Suit”).

8 2. This is an action for patent infringement under the patent laws of the United States,  
9 Title 35, United States Code.

10 3. The Patents-in-Suit both relate to cooling systems and methods of using same for  
11 cooling a computer system. A true and accurate copy of the ’362 patent is attached hereto as Exhibit  
12 A. A true and accurate copy of the ’764 patent is attached hereto as Exhibit B.

13 **THE PARTIES**

14 4. Asetek Danmark A/S is a corporation organized under the laws of Denmark with its  
15 principal place of business at Assensvej 2, DK-9220 Aalborg East, Denmark.

16 5. Upon information and belief, Newegg Inc. is a Delaware corporation with its  
17 principal place of business in California. Newegg Inc. owns and operates [www.newegg.com](http://www.newegg.com), as  
18 stated in a Newegg press release obtained from [newegg.com](http://www.newegg.com) and attached hereto as Exhibit C  
19 [<http://www.newegg.com/Info/NewsroomDetail.aspx?ID=1062&Type=3>].

20 6. Upon information and belief, Newegg North America Inc. is a Delaware corporation  
21 with its principal place of business in California. Newegg North America Inc. is affiliated with  
22 Newegg Inc., and conducts and is responsible for Newegg’s North America Operations as stated in a  
23 Newegg press release obtained from [www.newegg.com](http://www.newegg.com) and attached hereto as Exhibit C.

24 **JURISDICTION AND VENUE**

25 7. This is an action for patent infringement arising under the United States Patent Laws,  
26 35 U.S.C. § 100 et seq. Subject matter jurisdiction is proper under 28 U.S.C. §§ 1331 and 1338(a).

27 8. This Court has personal jurisdiction over Newegg. On information and belief,  
28 Newegg has conducted and does conduct business within the State of California, and its corporate

headquarters are located in California. On information and belief, Newegg, directly or through subsidiaries or intermediaries, offers for sale, sells, imports and induces offers for sale, sales, and imports of infringing products in the United States, the State of California, and the Northern District of California. On information and belief, these infringing products have been, and continue to be, purchased and used by consumers in the Northern District of California. On information and belief, Newegg has committed acts of infringement of the Patents-in-Suit within the State of California and, more particularly, within the Northern District of California.

9. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b).

## **FACTUAL BACKGROUND**

10. Asetek is the global leader in liquid cooling solutions for data centers, servers and PCs. Asetek's server products enable OEMs to offer cost effective, high performance liquid cooling data center solutions. Its PC products are targeted at the gaming and high performance desktop PC segments. With over 3.5 million liquid cooling units deployed, Asetek's patented technology is being adopted by a growing portfolio of OEMs and channel partners. Asetek's business is focused entirely on developing and selling liquid cooling products. The company has invested many millions of dollars in developing, designing, and selling its revolutionary liquid cooling solutions. Asetek's '362 and '764 patents protect many of the company's fundamental discoveries and achievements in liquid cooling.

## This Court Has Ruled That the Products Being Sold by Newegg Infringe Asetek's Patents

11. On January 31, 2013, Asetek sued Cooler Master Co., Ltd. (“Cooler Master Taiwan”) and Cooler Master USA, Inc. which later changed its name to CMI (“CMI”) in this District for unlawfully importing, offering to sell, and selling in the United States products that infringe the patents-in-suit, such as Cooler Master-branded Seidon products.

12. Specifically, Asetek's complaint against Cooler Master Taiwan and CMI alleged that infringing products were being promoted and sold in the United States through websites such as Newegg.com.

1       13. At trial, CMI did not contest that its products infringed claims 1-15, 17, and 18 of  
 2 Asetek's '764 patent and, on December 17, 2014, a jury found that Cooler Master-branded products  
 3 also infringed claims 14, 15, and 17-19 of Asetek's '362 patent. Specifically, the jury found that the  
 4 Cooler Master Seidon (Seidon 120M, 120XL, and 240M), Seidon 120V, Nepton (Nepton 140XL  
 5 and 280L), and Glacer 240L products (collectively, the "Infringing Products") infringed Asetek's  
 6 '362 patent. The jury also rejected all of the asserted invalidity defenses.

7       14. On September 22, 2015, Judge Tigar denied CMI's post-trial motions and issued a  
 8 permanent injunction which enjoined CMI, and anybody in active concert therewith (including  
 9 Cooler Master Taiwan), "from making, using, offering for sale or selling in the United States, or  
 10 importing into the United States, or causing to be made, used, offered for sale, or sold in the United  
 11 States, or imported into the United States, the Infringing Products."

12       15. On October 19, 2015, Judge Tigar entered final judgment that the Infringing Products  
 13 infringed Asetek's '362 and '764 patents. CMI appealed various issues to the Court of Appeals for  
 14 the Federal Circuit, including validity and infringement. On December 6, 2016, the Federal Circuit  
 15 issued its ruling affirming the district court on, among other things, the issues of validity and  
 16 infringement appealed by CMI.

17       **Newegg Ignored Two Cease and Desist Letters from Asetek**

18       16. After Judge Tigar entered judgment and issued an injunction against CMI, counsel for  
 19 Asetek sent letters to retailers and websites that were continuing to sell the infringing products after  
 20 issuance of the judgment and injunction, including Newegg.

21       17. In an October 2015 letter, counsel for Asetek informed Messrs. Fred Chang, Bob  
 22 Bellack, and Lee Cheng of Newegg that (1) Cooler Master's Infringing Products were found to  
 23 infringe Asetek's '362 and '764 patents; (2) Judge Tigar had enjoined the sales of those products in  
 24 the United States; (3) the Infringing Products were offered for sale on Newegg.com; and (4) Asetek  
 25 requested that Newegg cease and desist from selling Cooler Master's Infringing Products. The letter  
 26 also identified other products available on Newegg.com, such as Giga-Byte's GEFORCE GTX 980  
 27 Water Force (sold under at least model number GV-N980WAOC-4GD) which includes an infringing  
 28 Cooler Master product. Asetek concluded by "ask[ing] that Newegg cease all sales of the infringing

1 Cooler Master . . . products in the U.S., remove all listings of the above-listed products from your  
2 website accessible in the U.S., and cease importing infringing products into the U.S.” Newegg has  
3 been aware of the patents-in-suit and its infringing conduct since at least October 28, 2015, when it  
4 received this cease-and-desist letter from Asetek’s counsel dated October 23, 2015. A true and  
5 accurate copy of this letter is attached hereto as Exhibit D.

6 18. After receiving no response from Newegg, counsel for Asetek sent a second cease-  
7 and-desist letter on November 25, 2015. As explained in this letter, “[a] review of Newegg’s  
8 website reveals that as of this date, Newegg continues to offer for sale and sell in the United States  
9 products covered by the injunction and that infringe the ’362 and ’764 patents.” In addition to the  
10 Infringing Products previously identified, Asetek also identified other infringing products, such as  
11 Cooler Master Nepton 120XL, Cooler Master Nepton 240M, AMD FX-9590 Black Edition Vishera  
12 (which contains a Cooler Master Seidon 120M), Giga-Byte GEFORCE GTX 980 with Water Force  
13 (which contains a Cooler Master Seidon 120M), and AMD Radeon R9 Fury X products. Asetek  
14 concluded by “demand[ing] that Newegg cease all sales and offers for sale of the infringing products  
15 in the U.S., remove all listings of the products from your website accessible in the U.S., and cease  
16 importing infringing products into the U.S.” A true and accurate copy of this letter is attached hereto  
17 as Exhibit E.

18 19. Asetek’s letters to Newegg were met with silence and many of the identified products  
19 remain available for purchase on [www.newegg.com](http://www.newegg.com) for shipment to the United States.

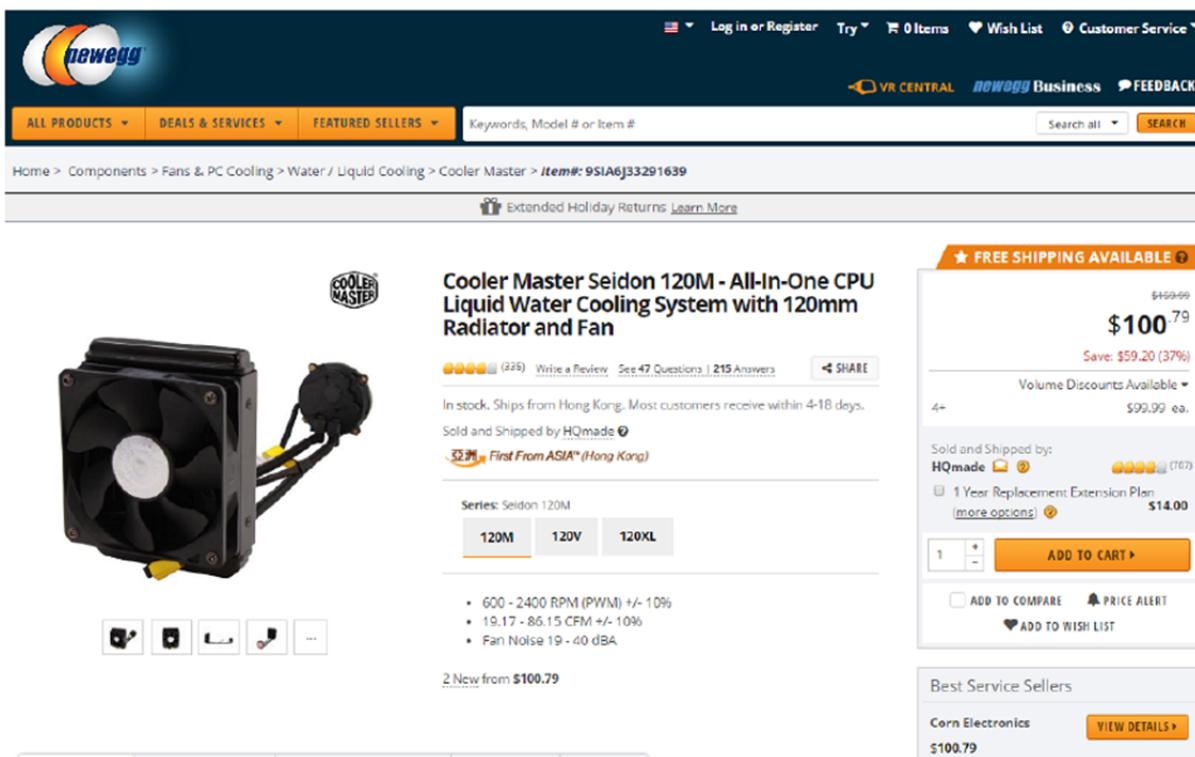
20 20. Upon information and belief, the following infringing products are available for  
21 purchase through [www.newegg.com](http://www.newegg.com):

- 22 • Seidon 120M, Seidon 120XL, Seidon 120V
- 23 • Nepton 120XL, Nepton 140XL, Nepton 240M, Nepton 280L
- 24 • EVGA GeForce GTX 980TI, EVGA GeForce GTX 1080 FTW
- 25 • GigaByte GeForce GTX 1080

26 (collectively, with the Infringing Products, “Newegg Infringing Products”).

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1        21. For example, the below screenshots of www.newegg.com were taken on November  
 2 10, 2016, showing that the Newegg Infringing Products are available for purchase from the United  
 3 States through www.newegg.com:



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Keywords, Model # or Item #  Search all

Home > Components > Fans & PC Cooling > CPU Fans & Heatsinks > Cooler Master > Item#: 9S1A85B4TY7896

Extended Holiday Returns [Learn More](#)

Cooler Master Seidon 120XL - PC CPU Liquid Water Cooling System, Push-Pull Kit with 120mm Radiator and 2 Fans

\$236.06

\$5.99 Shipping (restrictions apply)

Sold and Shipped by: 3D Electronics 3 Years for the Price of 2 Years 1 Year Replacement Extension Plan \$25.00

In stock. Ships from China. Most customers receive within 6-10 days.

Sold and Shipped by 3D Electronics

First From ASIA

Be the first to review this product...

ADD TO CART

ADD TO COMPARE  PRICE ALERT ADD TO WISH LIST

EXCLUSIVE MILITARY OFFER  
**SAVE 10%**

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Keywords, Model # or Item #  Search all

Home > Components > Fans & PC Cooling > Water / Liquid Cooling > Cooler Master > Item#: 9S1A4RE4Y37908

Extended Holiday Returns [Learn More](#)

Cooler Master Seldon 120V - Compact All-In-One CPU Liquid Water Cooling System with 120mm Radiator and Fan

\$79.99

★ FREE SHIPPING AVAILABLE

price match guarantee 3 Years for the Price of 2 Years \$14.00

Limited time offer, while supplies last By Corn Electronics Write a Review Set 88 Questions | 438 Answers

In stock. Limit 20 per customer. Ships from China. Most customers receive within 4-18 days.

Sold and Shipped by Corn Electronics

First From ASIA

Series: Seldon 120V

- 600 - 2400 RPM (PWM) +/- 10% 19.17 - 86.15 CFM +/- 10%
- Fan Dim. 120 x 120 x 25mm
- Fan Noise 19 - 40 dBA

2 New from \$78.99

ADD TO CART

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Best Service Sellers

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**Cooler Master Nepton 120XL CPU Water Cooling System, All-In-One Kit with 120mm Radiator and 2 Silencio Fans RL-N12X-24PK-R2**

**\$145.39**  
Save: \$54.00 (27%)

Volume Discounts Available  
4+ \$144.99 ea.

Sold and Shipped by: HQmade (70)  
First From ASIA® (Hong Kong)

2 New from \$145.39

ADD TO CART ▶

This product is available at a lower price from other sellers.

ADD TO COMPARE ▶ PRICE ALERT ▶ ADD TO WISH LIST ▶

VR CENTRAL NEWEGG Business FEEDBACK

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**Cooler Master Nepton 140XL - Push-Pull CPU Liquid Water Cooling System with 140mm Radiator and 2 JetFlo Fans**

**\$139.99**  
Premier - FREE 3 DAY or faster shipping

Sold by: Corn Electronics (1,215)  
Shipped by: Newegg

First From ASIA®

Series: Nepton 140XL  
120XL 140XL 240M 280L

- Zero maintenance design
- CM designed pump
- Thick FEP Tubing
- Dual JetFlo 140 fans
- Unique LED glow for logo

ADD TO CART ▶

ADD TO COMPARE ▶ PRICE ALERT ▶ ADD TO WISH LIST ▶

Fortify Your Network

VR CENTRAL NEWEGG Business FEEDBACK

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**Cooler Master Nepton 240M - CPU Water Cooling System, All-In-One Kit with 240mm Radiator and 2 Silencio Fans**

\$188.25

In stock. Ships from Hong Kong. Most customers receive within 4-18 days.

Sold and Shipped by HQmade

First From ASIA (Hong Kong)

Series: Nepton 240M

120XL 140XL 240M 280L

- Dual 120mm Silencio Fans (High Air Pressure, Low Noise Output)
- Exclusive Waterblock Design with Large Skived Fin Area
- Exclusive Pump Design with Enhanced Motor
- High Waterflow FEP Tubing

3 New from \$188.25

**FREE SHIPPING AVAILABLE**

Volume Discounts Available

4+ \$187.49 ea.

Sold and Shipped by HQmade

3 Years for the Price of 2 Years \$28.00 (more options)

ADD TO CART

This product is available at a lower price from other sellers.

ADD TO COMPARE PRICE ALERT ADD TO WISH LIST

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**Cooler Master Nepton 280L - All-In-One CPU Liquid Water Cooling System with 280mm Radiator and 2 JetFlo Fans**

\$183.29

In stock. Ships from Hong Kong. Most customers receive within 4-18 days.

Sold and Shipped by HQmade

First From ASIA (Hong Kong)

Series: Nepton 280L

120XL 140XL 240M 280L

- Zero maintenance design
- CM designed pump
- Thick FEP Tubing
- Dual JetFlo 140 fans
- Unique LED glow for logo

2 New from \$183.29

**FREE SHIPPING AVAILABLE**

Volume Discounts Available

4+ \$182.69 ea.

Sold and Shipped by HQmade

3 Years for the Price of 2 Years \$28.00 (more options)

ADD TO CART

This product is available at a lower price from other sellers.

ADD TO COMPARE PRICE ALERT ADD TO WISH LIST

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**EVGA GeForce GTX 980 Ti 06G-P4-1996-KR 6GB HYBRID GAMING, "All in One" No Hassle Water Cooling, Just Plug and Play Graphics Card**

**HYBRID Cooling, Reduced GPU Temps**

**\$773.99**  
Save: \$40.00 (5%)

**Premier - FREE 3 DAY or faster shipping**

Sold and Shipped by: Newegg

1 Year Extended Coverage Plan \$40.00  
(more options)

**ADD TO CART**

**ADD TO COMPARE** **PRICE ALERT** **ADD TO WISHLIST**

**Best Service Sellers**

OutletPC \$803.98 **VIEW DETAILS**

**FREE SHIPPING AVAILABLE**

**EVGA GeForce GTX 1080 FTW HYBRID GAMING, 08G-P4-6288-KR, 8GB GDDR5X, RGB LED, All-In-One Watercooling with 10CM FAN, 10 Power Phases, Double BIOS, DX12 OSD Support (PXOC)**

**Free Exclusive Precision XOC to Overclock 1080 GPU**

**\$729.99**

**Premier - FREE 3 DAY or faster shipping**

Sold and Shipped by: Newegg

1 Year Extended Coverage Plan \$35.00  
(more options)

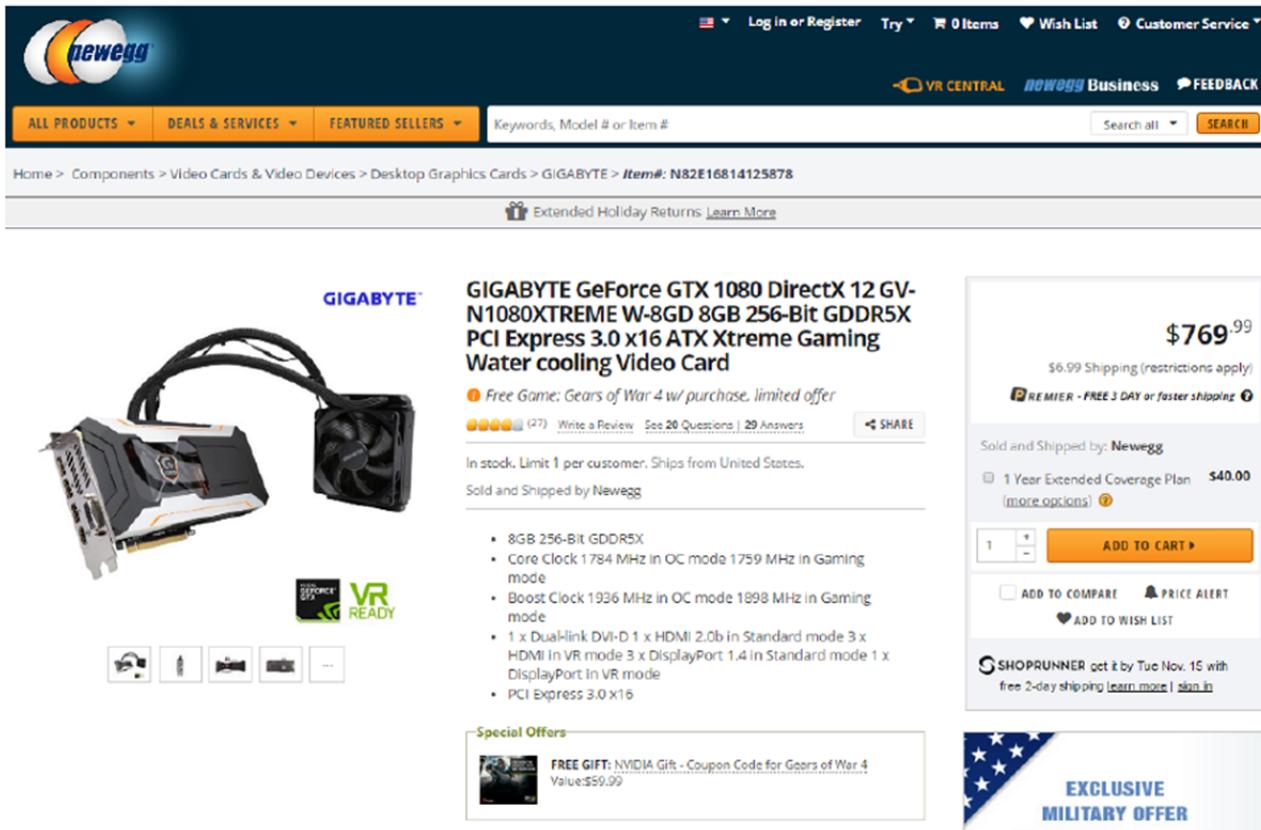
**ADD TO CART**

**ADD TO COMPARE** **PRICE ALERT** **ADD TO WISHLIST**

**Best Service Sellers**

Klick Online \$939.99 **VIEW DETAILS**

**FREE SHIPPING AVAILABLE**



## COUNT I: WILLFUL INFRINGEMENT OF U.S. PATENT NO. 8,240,362

22. Asetek incorporates by reference each and every allegation set forth in paragraphs 1 through 21 of its Complaint as if fully set forth and restated herein.

23. The '362 patent entitled "Cooling System for a Computer System" was duly and legally issued by the United States Patent and Trademark Office ("PTO") on August 14, 2012. Asetek is the sole and exclusive owner of the '362 patent.

24. Newegg, without authority and consent of Asetek, has been and continues to import, offer to sell, and sell in the United States products that infringe claims 14, 15, and 17-19 of the '362 patent, including but not limited to the Newegg Infringing Products. Newegg has directly infringed and continues to directly infringe the '362 patent.

25. For example, the Infringing Products (Cooler Master's Seidon (Seidon 120M, 120XL, and 240M), Seidon 120V, Nepton (Nepton 140XL and 280L), and Glacer 240L products) were already found by this Court to infringe claims 14, 15, and 17-19 of the '362 patent.

1       26. Moreover, upon information and belief, the Nepton 120XL, Nepton 240M, EVGA  
2 GeForce GTX 980TI, EVGA GeForce GTX 1080 FTW, and GigaByte GeForce GTX 1080 infringe  
3 claims 14, 15, and 17-19 of the '362 patent for the same reasons. Specifically, upon information and  
4 belief, each of these products either (a) contains one or more of the Infringing Products or (b) is a  
5 new liquid-cooling product which infringes for similar reasons to those established at trial with  
6 respect to the Infringing Products.

7       27. At least as of October 28, 2015, Newegg has had knowledge of the '362 patent and,  
8 upon information and belief, has induced and continues to induce direct infringement of the '362  
9 patent by aiding and abetting infringement by merchants and customers in the United States,  
10 including but not limited to merchants and customers of the Newegg Infringing Products. Newegg  
11 has intentionally taken action that has actually induced and continues to induce direct infringement  
12 by merchants and customers in the United States, and has known that the acts have been and are  
13 causing infringement of the '362 patent. These acts include, but are not limited to, making available  
14 for purchase and facilitating the sales and import of Newegg Infringing Products in the United States  
15 through Newegg's online marketplace, www.newegg.com. Newegg is aware that third parties' (such  
16 as merchants and customers) conduct in offering for sale, selling, and importing to the United States  
17 the Newegg Infringing Products constitutes an infringement of the '362 patent and yet has continued  
18 to induce the infringing conduct.

19       28. At least as of October 28, 2015, Newegg has had knowledge of the '362 patent and  
20 has contributed and continues to contribute to direct infringement of the '362 patent by supplying an  
21 important (material) component of the infringing products and method to customers in the United  
22 States, including but not limited to the Newegg Infringing Products, which are not common  
23 components suitable for non-infringing use. Newegg supplies the components with knowledge of  
24 the '362 patent and knowledge that the components were especially made or adapted for use in an  
25 infringing manner, and that customers and end users directly infringe the '362 patent in the United  
26 States.

27       29. Newegg's infringement of the '362 patent has been and continues to be egregious and  
28 willful, and has caused and continues to cause damage and irreparable harm to Asetek. Even though

1 Asetek informed Newegg of its unlawful conduct at least as early as October 2015, which included  
 2 this Court's order enjoining the sales of infringing products, Newegg continues to permit the  
 3 unlawful offers for sale, sales, and imports in the United States of products held by this Court to  
 4 infringe the '362 patent.

**COUNT II: WILLFUL INFRINGEMENT OF U.S. PATENT NO. 8,245,764**

6 30. Asetek incorporates by reference each and every allegation set forth in paragraphs 1  
 7 through 29 of its Complaint as if fully set forth and restated herein.

8 31. The '764 patent entitled "Cooling System for a Computer System" was duly and  
 9 legally issued by the United States Patent and Trademark Office ("PTO") on August 21, 2012.  
 10 Asetek is the sole and exclusive owner of the '764 patent.

11 32. Newegg, without authority and consent of Asetek, has been and continues to import,  
 12 offer to sell, and sell in the United States products that infringe claims 1-15, 17, and 18 of the '764  
 13 patent, including but not limited to the Newegg Infringing Products. Newegg has directly infringed  
 14 and continues to directly infringe the '764 patent.

15 33. For example, CMI did not dispute that the Infringing Products (Cooler Master's  
 16 Seidon (Seidon 120M, 120XL, and 240M), Seidon 120V, Nepton (Nepton 140XL and 280L), and  
 17 Glacer 240L products) infringe claims 1-15, 17, and 18 of the '764 patent.

18 34. Moreover, upon information and belief, the Nepton 120XL, Nepton 240M, EVGA  
 19 GeForce GTX 980TI, EVGA GeForce GTX 1080 FTW, and GigaByte GeForce GTX 1080 infringe  
 20 claims 1-15, 17, and 18 of the '764 patent for the same reasons. Specifically, upon information and  
 21 belief, each of these products either (a) contains one or more of the Infringing Products or (b) is a  
 22 new liquid-cooling product which infringes for similar reasons with respect to the Infringing  
 23 Products.

24 35. At least as of October 28, 2015, Newegg has had knowledge of the '764 patent and,  
 25 upon information and belief, has induced and continues to induce direct infringement of the '764  
 26 patent by aiding and abetting infringement by merchants and customers in the United States,  
 27 including but not limited to merchants and customers of the Newegg Infringing Products. Newegg  
 28 has intentionally taken action that has actually induced and continues to induce direct infringement

by merchants and customers in the United States, and has known that the acts have been and are causing infringement of the '764 patent. These acts include, but are not limited to, making available for purchase and facilitating the sales and import of Newegg Infringing Products in the United States through Newegg's online marketplace, Newegg.com. Newegg is aware that third party's (such as merchants and customers) conduct in offering for sale, selling, and importing to the United States the Newegg Infringing Products constitutes an infringement of the '764 patent and yet has continued to induce the infringing conduct.

36. At least as of October 28, 2015, Newegg has had knowledge of the '764 patent and has contributed and continues to contribute to direct infringement of the '764 patent by supplying an important (material) component of the infringing products and method to customers in the United States, including but not limited to the Newegg Infringing Products, which are not common components suitable for non-infringing use. Newegg supplies the components with knowledge of the '764 patent and knowledge that the components were especially made or adapted for use in an infringing manner, and that customers and end users directly infringe the '764 patent in the United States.

37. Newegg's infringement of the '764 patent has been and continues to be egregious and willful, and has caused and continues to cause damage and irreparable harm to Asetek. Even though Asetek informed Newegg of its unlawful conduct at least as early as October 2015, which included this Court's order enjoining the sales of infringing products, Newegg continues to permit the unlawful offers for sale, sales, and import in the United States of products held by this Court to infringe the '764 patent.

## **PRAYER FOR RELIEF**

38. WHEREFORE, Asetek respectfully prays for the following relief:

a. A judgment that Newegg is liable for infringing (directly, contributorily, and by inducement) the patents-in-suit;

b. An order preliminarily and permanently enjoining Newegg and their officers, directors, employees, agents, licensees, representatives, affiliates, related companies, servants,

successors and assigns, and any and all persons acting in privity or in concert with any of them, from further infringing upon the patents-in-suit;

c. An award of all damages sufficient to fully compensate Asetek for past infringement, up until entry of the final judgment, by Newegg under 35 U.S.C. § 284;

d. Enhancement of damages under 35 U.S.C. § 284;

e. A judgment requiring Newegg to pay Asetek's pre-judgment and post-judgment interest on the damages awarded; and,

f. An award of attorney fees under 35 U.S.C. § 285.

**JURY DEMAND**

39. Asetek requests a trial by jury on all issues so triable.

1 Dated: December 9, 2016

Respectfully submitted,

2 FINNEGAN, HENDERSON, FARABOW,  
3 GARRETT & DUNNER, LLP

4 By: /s/ Robert F. McCauley  
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